

REMARKS/ARGUMENTS

Claims 1-5, 7-9, 11-16 and 21-23 are presented for examination; claims 6 and 10 are cancelled and claims 17-20, were previously cancelled. Claims 1 and 8 are amended to more distinctly describe the subject matter of applicant's invention. Support for these amendments appears at least in claims 6 and 10 which are now cancelled. No new matter is added by these amendments.

A. Rejections under 35 U.S.C. 102.

1-16 and 21-23 were rejected under 35 USC 102 based upon Leighton. This rejection is respectfully traversed.

Claims 1 and 8, as amended, call for two or more intermediary servers coupled to the network to receive requests from client applications, and a data storage mechanism coupled to the network at topological position with respect to the client applications that is unique from a topological position of the intermediary servers. At least this feature of claims 1 and 8 is not shown or suggested in the Leighton reference.

Even though the office action alleges that Leighton shows more than one intermediary server, it does not allege that the intermediary servers implement a communication channel between them as called for in claim 1, or that the a communication channel is provided as called or in claim 8. Nor does Leighton suggest any modification that would lead one to replace a host 36 with two hosts 36 that are coupled to communicate with each other. Hence, the Leighton reference does not show or suggest this feature of claims 1 and 8.

For at least these reasons, claims 1 and 8 are neither show or suggested by Leighton. Similarly, dependent claims 2-7, 9, and 11-16 are allowable for at least the same reasons as claims 1 and 8 from which they depend.

With respect to claim 21, the Office Action appears to make a rejection based on Leighton as well. However, the Office asserts that the top level DNS server in Leighton shows or suggest the step of causing the intermediary server to determine availability of the data storage mechanism as called for in claim 21.

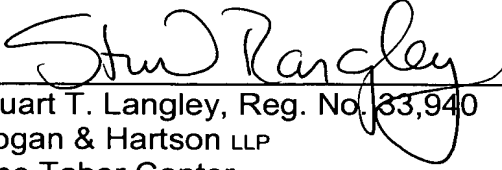
However, Leighton does not state that availability of the data storage mechanism is determined by the DNS system, nor is this a typical or standardized function of the DNS system. A DNS system translates a domain name into a network address, but does not provide any information or action related to availability of a server at the network address. In other words, the top level DNS server and the low level DNS server return information about the network address of registered servers, but do not return information about the availability of those servers. Moreover, if the DNS servers in Leighton are considered to be the intermediary servers of claim 21, those servers certainly do not function to obtain substitute database content as called for in claim 21 or to respond to a request using local data storage rather than by accessing the database management system as called for in claim 22. For at least these reasons claims 21-22, and claim 23 that depends from claim 22, are allowable over the relied on references.

B. Conclusion.

In view of all of the above claims 1-5, 7-9, 11-16 and 21-23 are believed to be allowable and the case in condition for allowance which action is respectfully requested. This response is filed together with a request for continued examination and a request for a three month extension of time in which to respond. The required fee of \$885 is enclosed with this response. Should any other fee be required, please charge Deposit 50-1123.

November 15, 2004

Respectfully submitted,


Stuart T. Langley, Reg. No. 33,940
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(720) 406-5335 Tel
(303) 899-7333 Fax